

TEMKO & TEMKO  
22 MARION ROAD, WESTPORT, CONN. 06880  
CODE 203 227-7368

28,355-A

RICHARD S. TEMKO  
CHARLES E. TEMKO

COUNSELORS AT LAW  
IN  
PATENT AND TRADEMARK CAUSES

GAIL E. NICKOLS  
COUNSEL

April 27, 2004

FACSIMILE NO.  
203 227-5429

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Atten: Ms. Jacqueline M. Stone, Director  
Technology Center 1700  
Chemical and Materials Engineering

Re: Lester E. Cornelius et al  
Serial No: 09/783,520 filed  
Feb 15, 2001 for Toner Sealed  
Tear Strip

This letter is in response to the decision in the above application dated March 19, 2004, received April 14, 2004, and bearing a mail stamp of April 12, 2004. It is noted that the petition is denied.

In her decision, Ms. Stone relies upon 37 CFR 1.5 (a) which states that any correspondence must identify on the top page in a conspicuous location, the application number, or serial number and filing date assigned to that application. It is also stated that it is assumed that when a paper is submitted to the office the information is correct, and the serial number is the primary indicator for all of the patent applications at the office, and also the papers to be matched with said cases.

It is submitted that Section 1.5 also states that any correspondence not containing such identification will be returned to the center where a return address is available, and at the return correspondence will be accompanied by a cover letter which will indicate to the center that if the return correspondence is resubmitted to the patent and trademark office within two weeks of the mailing date on the cover letter, the original date of the receipt of the correspondence will be considered by the patent and trademark office as the date of receipt of the correspondence.

Cont;;;2

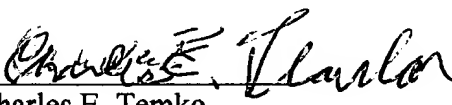
Counsel has carefully reviewed his file, and fails to find any evidence of receipt of either the defective document or the cover letter. Had this been done, Applicant would have been in a position to rectify the deficiency and resubmit it within the prescribed period. It is noted that the defective document did contain the mailing address.

It is acknowledged that the serial number of an application is the primary identification. However, it is noted that where the document contains the names of the applicants and the filing date, as well as the title of the invention, the correct serial number can be obtained very readily by merely contacting the application division, a process which Counsel has employed where a received office action has neither the correct serial number, or Counsel's docket number (which in this case is 28,355).

It is submitted that Ms. Stone's presumption that when a paper is submitted to the office the information is correct is not well taken. Section 1.5 specifically acknowledges the fact that an identification may be defective, and provides a procedure on the part of the Examiner by which the correction of the document is initiated.

Accordingly, reconsideration of the denial of the petition is requested, and further and favorable action is earnestly solicited.

Respectfully,

  
Charles E. Temko  
Attorney for Applicant

CET: eb